

RECEIVED  
CENTRAL FAX CENTER  003

NOV 03 2004

**IN THE  
UNITED STATES  
PATENT AND TRADEMARK  
OFFICE**

<i>Application Number</i>	09/225,245
<i>Filing Date</i>	January 4, 1999
<i>First Named Inventor</i>	Naohito TOMOE
<i>Group Art Unit</i>	2685
<i>Examiner Name</i>	Quochien B. Vuong
<i>Attorney Docket Number</i>	1137-761

*Title of the Invention: DEVICE FOR AND METHOD OF DETECTING INTERFERENCE WAVES*

**RESPONSE TO OFFICE ACTION**

Commissioner for Patents  
P.O. Box 1450  
Alexandria, VA 22313-1450

Dear Sir:

In response to the first Office action mailed June 3, 2004, a two-month extension of time being requested until November 3, 2004, the following remarks are respectfully submitted.

Serial No. 09/225,245  
 November 3, 2004  
 Page 4

While the Board acknowledged Yoshimi's discussion of the disadvantages of use of the prior art method (Decision at 5), the Board adopted an improper standard that the reference must show that the prior art method "does not work" in order for the reference to be found to teach away from the claimed invention. To the contrary, the case law requires only that a person of ordinary skill in the art be discouraged from making the proposed combination that is the claimed invention. In re Gurley, supra.

In the outstanding Office action, the Examiner alleges that it would have been obvious "to adapt the teaching of Yoshimi for adapting the transmitting means to the base station of AAPA to provide more properly detecting interference signal." Applicants disagree with this conclusion because it has no basis in fact anywhere in the prior art. That is, Yoshimi discloses in the background section thereof a prior art stand-alone dedicated measurement device, and according to the invention thereof teaches the detection of interference waves on the mobile communication terminal side. There exists absolutely no teaching, suggestion, or motivation anywhere in Yoshimi or the AAPA to make the modification proposed in the Office action. Instead, the only suggestion for making such a modification comes from the present application.

### Conclusion

In view of the foregoing, further and favorable reconsideration of this application, withdrawal of the outstanding grounds of rejection, and the issuance of a Notice of Allowance are earnestly solicited.

Please charge any fee or credit any overpayment pursuant to 37 CFR 1.16 or 1.17 to Deposit Account No. 02-2135.

RESPECTFULLY SUBMITTED,			
NAME AND REG. NUMBER	Vincent M. DeLuca Attorney for Applicants Registration No. 32,408		
SIGNATURE	Vincent M. DeLuca	DATE	3 NOV 04